

**Yee &
Associates, P.C.**

13760 Noel Road
Suite 900
Dallas, Texas 75240

Main No. (972) 367-2001
Facsimile (972) 367-2008

Facsimile Cover Sheet

To: Examiner Stephan Willett Art Unit 2141	Facsimile No.: 703/746-5490 Main No. of Receiving Firm:
From: Barry Jones/mg Date: September 29, 2004	No. of Pages Including Cover Sheet: 11 total
Message: Applicant Initiated Interview Request Form following.	
RE: application no. 09/292,191; docket no. AT9-98-355	

Please contact us at (972) 367-2001 if you do not receive all pages indicated above or experience any difficulty in receiving this facsimile.

This Facsimile is intended only for the use of the addressee and, if the addressee is a client or their agent, contains privileged and confidential information. If you are not the intended recipient of this facsimile, you have received this facsimile inadvertently and in error. Any review, dissemination, distribution, or copying is strictly prohibited. If you received this facsimile in error, please notify us by telephone and return the facsimile to us immediately.

PTOL-413A (08-03)

Approved for use through 07/31/2006, OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE**Applicant Initiated Interview Request Form**

Application No.: 09/292,191 First Named Applicant: William Meyer Smith
 Examiner: Willet, Stephen F Art Unit: 2141 Status of Application: _____

Tentative Participants:

(1) Catherine Kinslow (2) Barry Jones
 (3) Stephen Willett (4) _____

Proposed Date of Interview: 9/30/04 Proposed Time: 11:30 (AM) PM Eastern

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej</u>	<u>4</u>	<u>Miller, Boyle, Phaal</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>Rej</u>	<u>8</u>	<u>Miller, Phaal</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

Do not believe that Miller teaches dividing file into subfiles, as in claim 4
Do not believe that Phaal teaches reserving network resources, as recited in
claim 8

An interview was conducted on the above-identified application on _____.

NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

 (Applicant/Applicant's Representative Signature)

 (Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND KEYS OR COMPLETED FORMS TO THIS

AT9-98-355

PATENT

IN THE CLAIMS

Please cancel claims 1, 10, 19 and 28 without prejudice or disclaimer.

Please amend claims 2, 4-5, 11, 13-14, 20, 22-23 and 29-32 as indicated below.

This listing of claims will replace all prior versions, and listings, of the claims in the Application:

Listing of Claims:

Claim 1 (cancelled)

1 Claim 2 (currently amended) The method of claim [[1]] 4 wherein said step of
2 allocating a scheduled time comprises the steps of:
3 selecting said scheduled time; and
4 notifying said client to resend said network request at said scheduled time.

1 Claim 3 (original) The method of claim 2 wherein said step of selecting said
2 scheduled time comprises the step of selecting said scheduled time from a preselected
3 plurality of time slots.

1 Claim 4 (currently amended) ~~The method of claim 1 further comprising the steps of:~~
2 A method of servicing a network request comprising the steps of:
3 determining availability of resource capacity in response to a network request
4 for data from a server, received from a client;
5 responsive to the determining step, allocating a scheduled time for resending
6 said network request to said server by said client; and
7 breaking a file requested in said network request into a set of subfiles, wherein
8 said network request scheduled for resending comprises a request to send a
9 preselected subfile of said set of subfiles.

1 Claim 5 (currently amended) The method of claim [[1]] 4 further comprising the step
2 of servicing said request in real time when resource capacity is available.

AT9-98-355

PATENT

1 Claim 6 (previously presented) The method of claim 3 wherein each time slot
2 includes a first portion having a first preselected proportion of a predetermined
3 network resource capacity, said first portion comprising a portion reserved for
4 servicing requests in real time.

1 Claim 7 (previously presented) The method of claim 3 wherein each time slot
2 includes a first portion having a first preselected proportion of a predetermined
3 network resource capacity, said first portion comprising a portion reserved for
4 servicing at least one scheduled request.

1 Claim 8 (previously presented) A method of servicing a network request comprising
2 the steps of:

3 determining availability of resource capacity in response to said network
4 request; and

5 allocating a scheduled time for resending said network request by a client
6 initiating said request, wherein said step of allocating a schedule time comprises the
7 steps of:

8 selecting said scheduled time; and

9 notifying said client to resend said network request at said scheduled time, and
10 wherein said step of selecting said scheduled time comprises the step of selecting said
11 scheduled time from a preselected plurality of time slots, wherein each time slot
12 includes a first portion having a first preselected proportion of a predetermined
13 network resource capacity, said first portion comprising a portion reserved for
14 servicing requests in real time, and wherein said first portion includes a second
15 portion reserved for servicing requests having a first priority.

1 Claim 9 (previously presented) A method of servicing a network request comprising
2 the steps of:

3 determining availability of resource capacity in response to said network
4 request; and

5 allocating a scheduled time for resending said network request by a client initiating
6 said request, wherein said step of allocating a schedule time comprises the steps of:

AT9-98-355

PATENT

7 selecting said scheduled time; and
8 notifying said client to resend said network request at said scheduled time, and
9 wherein said step of selecting said scheduled time comprises the step of selecting said
10 scheduled time from a preselected plurality of time slots, wherein each time slot
11 includes a first portion having a first preselected proportion of a predetermined
12 network resource capacity, said first portion comprising a portion reserved for
13 servicing at least one scheduled request, and wherein said first portion includes a
14 second portion reserved for servicing requests having a first priority.

Claim 10 (cancelled)

1 Claim 11 (currently amended) The data processing system of claim [[10]] 13 wherein
2 said circuitry operable for allocating a schedule time comprises:
3 circuitry operable for selecting said scheduled time; and
4 circuitry operable for notifying said client to resend said network request at
5 said scheduled time.

1 Claim 12 (original) The data processing system of claim 11 wherein said circuitry
2 operable for selecting said scheduled time comprises circuitry operable for selecting
3 said scheduled time from a preselected plurality of time slots.

1 Claim 13 (currently amended) ~~The data processing system of claim 10 further~~
2 ~~comprising:~~ A data processing system for servicing a network request comprising:
3 circuitry operable for determining availability of resource capacity in response
4 to a network request for data from a server received by said server from a client;
5 circuitry operable for allocating a scheduled time for resending said network
6 request by said client in response to the circuitry operable for determining availability
7 of resource capacity; and
8 circuitry operable for breaking a file requested in said network request into a
9 set of subfiles, wherein said network request scheduled for resending comprises a
10 request to send a preselected subfile of said set of subfiles.

AT9-98-355

PATENT

1 Claim 14 (currently amended) The data processing system of claim [[10]] 13 further
2 comprising circuitry operable for servicing said request in real time when resource
3 capacity is available.

1 Claim 15 (previously presented) The data processing system of claim 12 wherein
2 each time slot includes a first portion having a first preselected proportion of a
3 predetermined network resource capacity, said first portion comprising a portion
4 reserved for servicing requests in real time.

1 Claim 16 (previously presented) The data processing system of claim 12 wherein
2 each time slot includes a first portion having a first preselected proportion of a
3 predetermined network resource capacity, said first portion comprising a portion
4 reserved for servicing at least one scheduled request.

1 Claim 17 (previously presented) A data processing system for servicing a network
2 request comprising:

3 circuitry operable for determining availability of resource capacity in response
4 to said network request; and

5 allocating a scheduled time for resending said network request by a client
6 initiating said request, wherein said circuitry operable for allocating a schedule time
7 comprises:

8 circuitry operable for selecting said scheduled time; and

9 circuitry operable for notifying said client to resend said network request at
10 said scheduled time, wherein said circuitry operable for selecting said scheduled time
11 comprises circuitry operable for selecting said scheduled time from a preselected
12 plurality of time slots, wherein each time slot includes a first portion having a first
13 preselected proportion of a predetermined network resource capacity, said first
14 portion comprising a portion reserved for servicing requests in real time, and wherein
15 said first portion includes a second portion reserved for servicing requests having a
16 first priority.

1 Claim 18 (previously presented) A data processing system for servicing a network
2 request comprising:

AT9-98-355

PATENT

3 circuitry operable for determining availability of resource capacity in response
4 to said network request; and

5 allocating a scheduled time for resending said network request by a client
6 initiating said request, wherein said circuitry operable for allocating a schedule time
7 comprises:

8 circuitry operable for selecting said scheduled time; and

9 circuitry operable for notifying said client to resend said network
10 request at said scheduled time, wherein said circuitry operable for selecting said
11 scheduled time comprises circuitry operable for selecting said scheduled time from a
12 preselected plurality of time slots and-12 wherein each time slot includes a first
13 portion having a first preselected proportion of a predetermined network resource
14 capacity, said first portion comprising a portion reserved for servicing at least one
15 scheduled request, and wherein said first portion includes a second portion reserved
16 for servicing requests having a first priority.

Claim 19 (cancelled)

1 Claim 20 (currently amended) The program product of claim [[19]] 22 wherein said
2 programming for allocating a schedule time comprises:

3 programming for selecting said scheduled time; and

4 programming for notifying said client to resend said network request at said
5 scheduled time.

1 Claim 21 (original) The program product of claim 20 wherein said programming for
2 selecting said scheduled time comprises programming for selecting said scheduled
3 time from a preselected plurality of time slots.

1 Claim 22 (currently amended) ~~The program product of claim 19 further comprising~~
2 ~~programming for:~~ A program product adaptable for storage on program storage
3 media, the program product operable for servicing a network request, the program
4 product comprising:

5 programming for determining availability of resource capacity in response to a
6 network request for data from a server received by said server from a client;

AT9-98-355

PATENT

7 programming for allocating a scheduled time for resending said network request by a
8 said client in response to the programming for determining availability of resource
9 capacity; and

10 breaking a file requested in said network request into a set of subfiles, wherein
11 said network request scheduled for resending comprises a request to send a
12 preselected subfile of said set of subfiles.

1 Claim 23 (currently amended) The program product of claim [[19]] 22 further
2 comprising programming for servicing said request in real time when resource
3 capacity is available.

1 Claim 24 (previously presented) The program product of claim 21 wherein each time
2 slot includes a first portion having a first preselected proportion of a predetermined
3 network resource capacity, said first portion comprising a portion reserved for
4 servicing requests in real time.

1 Claim 25 (previously presented) The program product of claim 21 wherein each time
2 slot includes a first portion having a first preselected proportion of a predetermined
3 network resource capacity, said first portion comprising a portion reserved for
4 servicing at least one scheduled request.

1 Claim 26 (previously presented) A program product adaptable for storage on
2 program storage media, the program product operable for servicing a network
3 request, the program product comprising:

4 programming for determining availability of resource capacity in response to
5 said network request; and

6 programming for allocating a scheduled time for resending said network
7 request by a client initiating said request, wherein said programming for allocating a
8 schedule time comprises the steps of:

9 programming for selecting said scheduled time; and

10 programming notifying said client to resend said network request at said
11 scheduled time, and

AT9-98-355

PATENT

12 wherein said step of selecting said scheduled time comprises the step of selecting said
13 scheduled time from a preselected plurality of time slots, wherein each time slot
14 includes a first portion having a first preselected proportion of a predetermined
15 network resource capacity, said first portion comprising a portion reserved for
16 servicing requests in real time, and wherein said first portion includes a second
17 portion reserved for servicing requests having a first priority.

1 Claim 27 (previously presented) A program product adaptable for storage on
2 program storage media, the program product operable for servicing a network
3 request, the program product comprising:

4 programming for determining availability of resource capacity in response to
5 said network request; and

6 programming for allocating a scheduled time for resending said network
7 request by a client initiating said request, wherein said programming for allocating a
8 schedule time comprises the steps of:

9 programming for selecting said scheduled time; and

10 programming notifying said client to resend said network request at said
11 scheduled time, and

12 wherein said step of selecting said scheduled time comprises the step of selecting said
13 scheduled time from a preselected plurality of time slots, wherein each time slot
14 includes a first portion having a first preselected proportion of a predetermined
15 network resource capacity, said first portion comprising a portion reserved for
16 servicing at least one scheduled request, and wherein said first portion includes a third
17 portion second portion reserved for servicing requests having a first priority.

Claim 28 (cancelled)

1 Claim 29 (currently amended) The data processing system of claim ~~[[28]]~~ 32 wherein
2 said request is scheduled for servicing at a preselected time.

1 Claim 30 (currently amended) The data processing system of claim ~~[[28]]~~ 32 wherein
2 said client further includes circuitry operable for resending said request in response to
3 said notification.

AT9-98-355

PATENT

1 Claim 31 (currently amended) The data processing system of claim [[28]] 32 wherein
2 said network comprises the Internet.

1 Claim 32 (currently amended) ~~The data processing system of claim 28~~ A data
2 processing system comprising:

3 a network;

4 a client coupled to said network; and

5 a server coupled to said network, said client including circuitry operable for
6 sending a request for delivery of software assets over said network to said server,
7 wherein said server includes circuitry operable for scheduling said request for delayed
8 servicing in response to insufficient system capacity, and circuitry for sending a
9 notification to said client to resend said request according to said scheduling, wherein
10 said server further includes circuitry operable for breaking said software asset into a
11 plurality of subfiles, wherein said request for resending comprises a request for a
12 preselected subfile of said plurality.

1 Claim 33 (previously presented) A method for servicing a network request
2 comprising:

3 determining availability of resource capacity in response to said network
4 request;

5 allocating a scheduled time for resending said network request by a client
6 initiating said request, the step of allocating a scheduled time including the substeps
7 of:

8 selecting said scheduled time; and

9 notifying said client to resend said network request at said scheduled
10 time, and

11 wherein said scheduled time is selected from a preselected plurality of
12 time slots, each time slot including a first portion having a first preselected proportion
13 of a predetermined network resource capacity, said first portion comprising a portion
14 reserved for servicing requests in real time, and each time slot including a second
15 portion having a first preselected proportion of a predetermined network resource

AT9-98-355

PATENT

16 capacity, said second portion comprising a portion reserved for servicing at least one
17 scheduled request.